

Senate File 2091 - Introduced

SENATE FILE 2091
BY COMMITTEE ON JUDICIARY

(SUCCESSOR TO SSB 3082)

A BILL FOR

1 An Act relating to common forms of co-ownership of real
2 property and including effective date and applicability
3 provisions.
4 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

1 Section 1. Section 557.15, Code 2014, is amended by striking
2 the section and inserting in lieu thereof the following:

3 **557.15 Common forms of co-ownership of real property.**

4 1. A conveyance of real property to two or more grantees
5 each in their own right creates a tenancy in common, unless a
6 contrary intent is expressed in the conveyance instrument or as
7 provided in subsection 2.

8 2. A conveyance of real property to two or more grantees in
9 a conveyance instrument in any of the following circumstances
10 creates a presumption of joint tenancy with rights of
11 survivorship unless a contrary intent is expressed in the
12 instrument and subject to subsection 3:

13 a. The instrument identifies two grantees as married to each
14 other at the time the instrument is executed.

15 b. The instrument describes the conveyance to the grantees
16 with the phrase "joint tenants", "joint tenancy", or words of
17 similar import.

18 c. The instrument describes the conveyance to the grantees
19 with the phrase "or their survivor" with reference to the
20 grantees, or words of similar import.

21 3. An order of annulment, dissolution, or separate
22 maintenance entered pursuant to section 598.21 is a muniment
23 of title to the real property described, and severs a joint
24 tenancy with rights of survivorship and creates a tenancy in
25 common in equal shares, unless otherwise provided in the order.

26 Sec. 2. EFFECTIVE DATE AND APPLICABILITY. This Act takes
27 effect January 1, 2015, and applies to instruments executed and
28 orders entered on or after that date.

29 **EXPLANATION**

30 The inclusion of this explanation does not constitute agreement with
31 the explanation's substance by the members of the general assembly.

32 Under current law, codified in Code section 557.15, a
33 conveyance of real property to two or more grantees in their
34 own right creates a tenancy in common, unless otherwise
35 indicated in the conveyance instrument. A property interest

1 held in a tenancy in common allows each owner to separately
2 convey, encumber, or devise the property. A joint tenancy with
3 rights of survivorship is another form of co-ownership of real
4 property recognized in Iowa in which the survivor owns the
5 entire interest in the property by operation of law upon the
6 death of the joint tenant.

7 The bill retains the current language in Code section
8 557.15 relating to tenancies in common and also specifies
9 that a conveyance of real property to two or more grantees
10 in a conveyance instrument in circumstances specified in the
11 bill creates a presumption of joint tenancy with rights of
12 survivorship, unless a contrary intent is expressed in the
13 instrument. The bill also provides that an order of annulment,
14 dissolution, or separate maintenance entered pursuant to
15 Code section 598.21 severs a joint tenancy with rights of
16 survivorship and creates a tenancy in common in equal shares,
17 unless otherwise provided in the order.

18 The bill takes effect January 1, 2015, and applies to
19 instruments executed and orders entered on or after that date.